274552

SIERRA CLUB
FOUNDED 1892

March 18, 2004

Docket Clerk, US DOT Dockets
Room PL-401
Department of Transportation
4000 7th Street, SW
Washington, DC 20590-0001

RE: Docket No. MARAD 2004-17166

To Whom It May Concern:

On behalf of the Sierra Club, I respectfully submit this document for the official record as public comment regarding the draft Environmental Assessment for the *Transfer of National Defense Reserve Fleet Vessels from the James River Reserve Fleet for Disposal at Able UK Facilities, Teesside, UK.*

The plan to send vessels from the James River Reserve fleet (commonly referred to as the Ghost Fleet) to the United Kingdom for disposal presents many concerns to the members of the Sierra Club. We are concerned that this plan is in contravention of current U.S. law, that this plan unnecessarily imperils the marine environment in the United States, on the high seas, and abroad, that there are safer adequate means of disposal in the United States, and that domestic scrapping of these vessels is in the public interest. Domestic scrapping would ensure ongoing control over the environmental impacts of vessel scrapping, domestic disposal is good for the economy and would create jobs, and the United States has a global responsibility to manage its own wastes.

The draft Environmental Assessment (EA) released by MARAD and the Department of Transportation omits crucial information needed to help the public determine the potentially significant environmental risks of the export to the U.K.

The Sierra Club urges MARAD to address the following points in the Environmental Assessment:

1. The EA should have provided an actual study of each of the nine remaining vessels instead of making a blanket assurance that the vessels are safe and operational, without the corresponding proof of such assertions. MARAD and EPA should do the following:
   a. Provide data on the hull conditions as well as the materials remaining in each of the vessels (Section 3.7);

85 Second Street, Second Floor San Francisco, CA 94105-3441 TEL: [415] 977-5500 FAX: [415] 977-5799 www.sierraclub.org

b. Provide an inventory of all the hazardous wastes in the nine vessels (Section 3.8); and,
c. Provide an inventory of oils, and contaminated or oily bilge and ballast water, etc. (Section 3.8).

2. The draft EA does not state the facts that Able UK does not have the necessary permits in place to undertake this project, and that there are strong doubts that such permits will be in place in time for this project to continue. Nor does the draft EA explain the environmental reasons for the lack of permits. Lack of such permits violates the OECD agreement on shipments of wastes for recovery implemented in the Resource Conservation and Recovery Act (RCRA) under which this export was allowed. The EA should address the following issues:
a. The lack of necessary permits;
b. The environmental reasons for lack of necessary permits;
c. The consequences of the failure to obtain the necessary permits;
d. The potential revocation of these permits.

3. Section 6(c)(1) of the National Maritime Heritage Act directs MARAD to select a dismantling facility based upon the facilities ability to dismantle vessels "in a manner that minimizes the geographic distance that a vessel must be towed when towing a vessel poses a serious threat to the environment." In its discussion of the environmental effects (Section 4.0), the draft EA offers a limited choice between the proposed action alternative (sending to the UK) and a no action alternative (keeping the vessels in the James River). The EA should include a third alternative – a critical environmental analysis of conducting the ship breaking in the United States, including a recognition that minimizing dangerous towing operations will minimize the environmental risk as well as energy use.

4. MARAD must also include analysis of a fourth option in the EA – prior decontamination of all oils and hazardous wastes as near to the site of origin as possible, prior to any further recycling, at home or abroad.

5. Because MARAD claims insufficient US domestic disposal capacity, the EA should justify why several US ship scrappers were denied the Pilot Program contract given that Able UK cannot even perform its present obligations and given the fact that these same US ship scrappers in fact claim that they have adequate capacity to dismantle the ships while helping to build the vessel recovery infrastructure in this country and providing jobs. (Section 2.3.1).

6. The draft EA should assess the potentially significant environmental and health impacts posed by the hazardous materials not mentioned in the EA – particularly PCBs in paints, cadmium, lead, mercury, and other toxic materials. The potential environmental impacts of all hazardous materials on each of the vessels must be thoroughly assessed. This assessment must address the

individual and cumulative risks of leak, spill, or catastrophic loss during vessel tow. (Related to Section 3.8 of the draft EA).

7. The draft EA discusses a catastrophic oil spill plan, but does not disclose such plan despite the requirement to assess risks of natural disasters and unique and uncertain risks. MARAD should disclose this plan, and it should also explore the simple option of pumping out all the oil and oily bilge and ballast waters while the vessels are sitting in the James River. (Section 4.3).

8. Although the coast guard towing permit is hardly a guarantee against losses, as history can demonstrate, the draft EA does not assess the likelihood or potential impacts of a possible leak, spill, or sinking en route caused by un-seaworthiness, mechanical failure, or act of god.

9. In the draft EA, MARAD discusses the number of dead tows performed in 2003, but includes no data on the numerous historical failed dead tow attempts, or the reasons for these failures. Nor does MARAD assess the risks of tandem dead tows, the fact that the US navy does not allow tandem tows, or the insurability of such tows. (Sections 4.7.4 and 4.8.1)

10. The scope of review inappropriately excludes environmental impacts to the global commons (high seas) and the United Kingdom.

11. The draft EA fails to assess risks to human health (e.g. from uptake of PCBs in marine environment, or from washed up airborne asbestos, or occupational hazards).

12. The draft EA fails to assess the cumulative impacts of each of the above mentioned potential environmental risks, despite NEPA's requirements.

The draft EA fails to establish that there are no significant risks facing the affected communities or environment in the US, the UK, or the global commons. This failure stems from the failure to present crucial data and analysis or critical alternatives in the draft EA. The draft EA does not give a comprehensive evaluation of the potential impacts resulting from the export of these nine vessels. The Sierra Club respectfully urges MARAD and DOT to integrate the above concerns into the final Environmental Assessment.

Sincerely,

James Mays
Chair, Sierra Club Waste Committee
2545 County Rt. 3
Olivebridge, NY 12461
(845) 657-2013